

Statement of Rep. Edward J. Markey (D-MA)
Energy and Commerce Subcommittee on Oversight and Investigations
Hearing on Medicaid Prescription Drug Prices
December 7, 2004

Thank you, Mr. Chairman for calling this hearing. Today we will hear testimony from the HHS Inspector General indicating that the federal government is paying far too much for prescription drugs under the Medicaid program. This is not the first time that such concerns have been raised. We have been getting reports of these overpayments since the early nineties. Yet the Centers for Medicare and Medicaid Services (CMS) have continually failed to address their internal mismanagement and the systematic problems that enable drug companies and pharmacies to commit fraud and inflate the prices of their drugs.

Prescription drugs are one of the fastest-growing expenses for Medicaid. Between 1998 and 2002, expenditures for prescribed drugs increased by 19 percent per year and by 2003 the Medicaid program spent over \$31 billion dollars on prescription drugs alone. If we do not address the rising cost of prescription drugs, it will drain the Medicaid program of the funds needed to provide health care to our nation's most vulnerable populations.

There are three problems with the current system that I hope to hear more about in today's hearing. The first is that CMS has been slow to implement cost simple cost saving measures within the agency. The second problem is that the price the states pay for prescription drugs has nothing to do with the actual cost of the drug. The third problem is that the federal government is not allowed to use its market power to negotiate lower prices for consumers.

The Inspector General has identified several simple ways that CMS could save money if they were more diligent in their administration of the program. Putting qualified drugs on the Federal Upper Limits list as soon as they are approved, for example, could save over \$100 million.

Unfortunately, not all of Medicaid's problems can be solved so easily. We also have to address the fact that the current reimbursement system practically begs to be exploited. The fact that numerous pharmacies and drug companies have pled guilty to overcharging Medicaid, lying about their costs, taking kickbacks, and submitting false claims show the vulnerability of the system. We currently have a system where companies are asked to simply make up the price that the states will pay for their drugs. This price, called the "Average Wholesale Price" has no relationship to the actual cost of the drug and the companies that set that price do not have to provide the states any information about the real cost of manufacturing the drugs. It's like being asked to pay \$50 for t-shirt without having access to any information about what others have paid for the same t-shirt. If the vendor tells you that it is a fair price but doesn't have to give you any evidence that it is reasonable, you have no choice but to trust that the seller is being honest. When it comes to spending taxpayer money, we cannot base our decisions on trust, we need to base them

on evidence. In order to ensure that states are not overpaying for prescription drugs, they should have access to pricing information and the actual costs of the drug.

We will also hear today about the new program that has been successful in actually reducing spending on prescription drugs. In April HHS allowed Michigan, Vermont, New Hampshire, Alaska, and Nevada to form a purchasing pool. By combining their programs, they were able to increase their market power and negotiate better drug prices. At a time when drug prices were rising at a rate of almost 20 percent per year, Michigan's drug prices actually declined about 1 percent in the first year of their pooling program. In response to their success, Administrator Mark McClellan stated that pools are "a proven legal, and safe way to lower drug costs." However, if evidence suggests that pools work and CMS acknowledges that they are an effective way to lower costs, then why is the federal government forbidden from creating one large pool and using its market power to negotiate the best price for Medicaid and Medicare beneficiaries?

Today we're going to hear from Wal-Mart about how they're reducing costs through the purchasing power of their "Sam's Clubs." But why can't we establish an "Uncle Sam's Club" that could link up with the states to pool the enormous purchasing power of the federal and state governments to further drive down the cost of prescription drugs?

In order to preserve this critical health care program, we need find ways to curb the cost of prescription drugs. Instead of wasting taxpayer dollars on over-inflated drug prices, Medicaid funds should be spent on ensuring that all of our country's most vulnerable populations—children, the elderly, the poor and the disabled have access to high quality care. I look forward to the recommendations of the IG, the states and our other witnesses.

Thank you.